IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

      Plaintiff,

v.   Crim. Action No. 1:18-cr-58
                                          (Kleeh)

BRIAN K. GRIFFEY,

      Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 45] AND DENYING DEFENDANT'S MOTION TO SUPPRESS [DKT. NO. 26]

On November 6, 2018, Brian K. Griffey ("Defendant") was charged in a one-count indictment for Unlawful Possession of a Firearm and Ammunition in violation of 18 U.S.C. § 922(g)(1) and 924(e). On February 1, 2019, Defendant filed a motion to suppress evidence. Pursuant to 28 U.S.C. § 636, the Court referred the motion to United States Magistrate Judge Michael J. Aloi for initial review and preparation of a Report and Recommendation ("R&R"). The Magistrate Judge recommended that the motion to suppress be denied.

When considering a magistrate judge's R&R pursuant to 28 U.S.C. § 636(b)(1), the Court must review *de novo* those portions to which objection is timely made. Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations to which the [defendant] does not object." *Dellarcirprete v. Gutierrez*, 479 F. Supp. 2d 600, 603-04 (N.D.W.

Va. 2007) (citing *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are "clearly erroneous." *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Here, objections to the Magistrate Judge's R&R were due on or before Tuesday, February 26, 2019. To date, Defendant has not filed any objections. Accordingly, the Court reviewed the R&R for clear error.

Conclusion

Upon careful review of the above, and finding no clear error, the Court **ADOPTS** the R&R [Dkt. No. 45]. Defendant's motion to suppress [Dkt. No. 26] is **DENIED**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record.

DATED: February 27, 2019

> /s/ Thomas S. Kleeh
> THOMAS S. KLEEH
> UNITED STATES DISTRICT JUDGE